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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-211099

DATE: March 29, 1983

MATTER OF: Instrumentation Marketing
Corporation

DIGEST:

Where invitation for bids requires delivery within 60 days after the date of contract award, bid offering delivery within 60 days after receipt of order extends delivery date beyond solicitation requirement. Therefore, bid was properly rejected as nonresponsive.

Instrumentation Marketing Corporation (IMC) protests the Department of the Navy's (Navy) rejection of its low bid as nonresponsive to invitation for bids NOO204-83-B-0019. The Navy rejected the bid because it did not comply with the required delivery schedule set forth in the solicitation.

We summarily deny the protest.

The solicitation required delivery of all items within 60 days after the date of contract award. In addition, the solicitation stated that a bid offering delivery based on the date of receipt of the contract would be evaluated by adding 5 days for delivery of the contract through the mails. The statement admonished bidders that if that computation made the offered delivery date later than the required delivery date, the bid would be considered nonresponsive and would be rejected.

IMC's bid stated that delivery would be within "60 days ARO" (after receipt of order). The Navy found that this would extend delivery beyond the time required in the solicitation and, consequently, rejected IMC's bid as nonresponsive.

IMC argues that the IFB warning concerning the nonresponsiveness of bids offering longer delivery times was difficult to read because of the small print and poor quality of the copy. IMC also asserts that it has used the legend "ARO" on previous bids and was awarded the contracts. Finally, IMC contends that the Government should not lose the benefit of a lower price because of a "technicality" that could have been clarified with a telephone call.

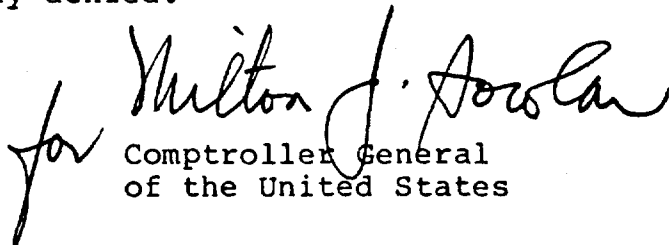
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This case is one in which it is clear from the protester's initial submission that the protest is without legal merit, and we will decide it on the basis of this submission without an agency report. Industrial Maintenance Services, Inc., B-195216, June 26, 1979, 79-1 CPD 476.

Where, as here, an IFB requires delivery within a stated period, time must be regarded as of the essence of the resulting contract. Parker-Hannifin Corporation, B-186385, August 3, 1976, 76-2 CPD 120. We have consistently held that where the inclusion of a qualification in a bid has the effect of extending the promised delivery date beyond the date required by the solicitation, the bid is nonresponsive and must be rejected. Imperial Eastman Corporation, 55 Comp. Gen. 605 (1975), 75-2 CPD 417. We have specifically held that where the required delivery is a number of days after the date of the contract and the bidder promises delivery the same number of days after receipt of orders, the delivery date is extended beyond that required and the bid must be rejected as nonresponsive. Environmental Tectonics Corporation, B-195882, September 19, 1979, 79-2 CPD 204.

Concerning IMC's specific arguments, we examined the solicitation and found the warning to be clear and readable. Also, if the Government has, as IMC alleges, accepted bids in similar situations; that acceptance was erroneous and provides no basis for accepting IMC's bid here. Engineering Design & Development, B-185332, February 11, 1976, 76-1 CPD 92. Finally, responsiveness must be determined from the face of a bid, and post-bid-opening clarifications may not be considered. Sunsav, Inc., B-205004.2, November 29, 1982, 82-2 CPD 476.

Protest summarily denied.

for 
Comptroller General
of the United States